

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

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No. 6:21-cv-00199

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**Sean David Pike,**  
*Plaintiff,*

v.

**Donald Whitehead et al.,**  
*Defendants.*

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**ORDER**

Plaintiff Sean David Pike, proceeding pro se and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636(b). Doc. 3.

On August 10, 2021, the magistrate judge issued a report recommending that plaintiff's claim about Covid-19 exposure be dismissed without prejudice to his ability to continue litigating that claim in his prior suit, Case No. 6:20-cv-00619, and that the rest of this case be dismissed with prejudice for failure to state a claim. Doc. 18. Plaintiff filed a timely written objection. Doc. 21.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The magistrate judge recommended dismissal because plaintiff already had a suit pending about his Covid-19 claim and the rest of his allegations fail to state a claim as a matter of law, even assuming plaintiff could prove them. Doc. 18. Plaintiff's objection asserts a need for discovery and appointed counsel to prove his claims and does not refute either basis for dismissal. Doc. 21.

Having reviewed the magistrate judge's report de novo, and being satisfied that it contains no error, the court overrules plaintiff's objections and accepts the report's findings and recommendation. Plaintiff's Covid-19 claim is dismissed without prejudice to his

ability to continue litigating that claim in his pending appeal in Case No. 6:20-cv-00619, and all other claims are dismissed with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1) for failure to state a claim upon which relief can be granted.

*So ordered by the court on September 14, 2021.*

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER  
United States District Judge